



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2019–0043; FXES11130800000 190]

Endangered and Threatened Species; Proposed Low-Effect Habitat Conservation Plan for the Desert Tortoise, Nye County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Canyon Mesa Solar, LLC for an incidental take permit under the Endangered Species Act. The requested permit would authorize take of the Mojave desert tortoise resulting from the construction, operation, and maintenance of a solar photovoltaic facility in Pahrump, Nevada. The permit application includes a proposed low-effect habitat conservation plan (HCP). In accordance with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under NEPA. We are accepting comments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

DATES: Please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *Obtaining Documents:* The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R8–ES–2019–0043 at <http://www.regulations.gov>. Persons

wishing to review documents may obtain copies by written or telephone request to Jennifer Wilkening, by phone at 702–515–5239, or by mail at U.S. Fish and Wildlife Service, Southern Nevada Fish and Wildlife Office, 4701 N. Torrey Pines Dr., Las Vegas, NV 89130.

Submitting Comments: You may submit comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2019–0043.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2019–0043; U.S. Fish and Wildlife Service; MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only the methods described above.

FOR FURTHER INFORMATION CONTACT: Jennifer Wilkening, Southern Nevada Fish and Wildlife Office, 702–515–5239 (phone) or jennifer_wilkening@fws.gov (email). If you use a telecommunications device for the deaf, hard-of-hearing, or speech disabled, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, have received an application from Canyon Mesa Solar, LLC for a 30-year incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would authorize take of the threatened Mojave desert tortoise (*Gopherus agassizii*) resulting from the construction, operation, and maintenance of a solar photovoltaic facility in Pahrump, Nevada. The permit application includes a proposed low-effect habitat conservation plan (HCP) that incorporates measures the applicant would implement to minimize and mitigate effects of otherwise lawful project

activities on the desert tortoise. We have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We are accepting comments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

Background

Section 9 of the ESA prohibits take of fish and wildlife species listed as endangered (16 U.S.C. 1538). Although not listed as endangered, the Mojave desert tortoise was listed as threatened on April 2, 1990 (55 FR 12178), with an accompanying ESA section 4(d) rule (16 U.S.C. 1533(d)), which applies the same take prohibitions for an endangered species to the threatened tortoise.

Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species are set forth in title 50 of the Code of Federal Regulations (CFR) at part 17, section 17.32.

NEPA (42 U.S.C. 4321 *et seq.*) requires a detailed environmental impact statement (EIS) for major Federal actions that significantly affect the quality of the human environment. An agency may use an environmental assessment (EA) to inform a decision as to whether to complete an EIS, or it can establish categories of actions that individually or cumulatively generally do not have significant effects on the human environment and do not require either an EA or an EIS. For this permit application, the Service has preliminarily determined that the issuance of the ITP is not a major Federal

action that will significantly affect the quality of the human environment, nor will it individually or cumulatively have more than a negligible effect on the species covered by the HCP, and should therefore be categorically excluded from further NEPA analysis as a low-effect HCP (see table below). The project occurs on land parcels zoned light industrial or mixed use, and the area has been impacted by prior disturbances such as a now-abandoned airfield, off-road use, trash dumping, and target shooting. Vegetation within the majority of the site (95 acres) will be mowed or trimmed, rather than bladed or graded, and site fencing will include openings to allow tortoises to enter and exit the facility after construction. Photovoltaic (PV) panels will be installed at a greater height than the industry standard, and panel spacing will be increased to facilitate optimum vegetative growth, which will help to maintain future habitat connectivity for wildlife following construction.

Applicant, City, State	HCP Covered Species	Location and Size	Activities	Type of Take	Project's Actions to Minimize and Mitigate for Take
Canyon Mesa Solar, LLC, Las Vegas, Nevada	Mojave desert tortoise (<i>Gopherus agassizii</i>)	Nye County, NV South of City of Pahrump 165.6 acres	Survey, capture, handle, restore habitat, and translocate	Harm, possible mortality or injury	Translocation, habitat restoration, research and monitoring, testing and development of invasive weed management techniques, leaving native vegetation in place and allowing for wildlife use inside site after construction, maintaining habitat connectivity

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public review at <http://www.regulations.gov>.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

If we decide to issue a permit to the applicant listed in this notice, we will publish a notice in the *Federal Register*.

Authority

We issue this notice pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and consistent with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.205).

Glen Knowles,

Field Supervisor,

Southern Nevada Fish and Wildlife Office,

Las Vegas, Nevada.

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